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OFFICE OF PETITIONS

Applicant: Geurin-Marchand et al.
Appl. No.: 09/900,963
Filing Date: July 10, 2001
Title: PEPTIDE SEQUENCES SPECIFIC FOR THE HEPATIC STAGES OF P.
FALCIPARUM BEARING EPITOPES CAPABLE OF STIMULATING THE T
LYMPHOCYTES
Attorney Docket No.: 010830-118
Pub. No.: US 2003/0064075 A1
Pub. Date: April 3, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was on June 3, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains several typographical errors such as the misspelling of "peptide-sequence" for "peptide sequence" in claim 3 and typographical errors in the sequence listings in claim 8, line 5 and claim 12, line 16.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." The instant request does not identify a material mistake in the publication made by the Office:

The typographical errors identified by applicant are Office mistakes, but they are not material mistakes as required by 37 CFR 1.221(b). A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The misspelling of "peptide-sequence" for "peptide sequence" is minor typographical error which is clearly understandable from reading the sentence and/or paragraph in which the term is used, as the term is not read in a vacuum. It is also not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The two errors in the sequence listing in claims 8 and 12 are not material mistakes, as the errors

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

are typographical errors, the sequences were correctly written in the specification and the claims have been canceled. Since the specification was accurately published, thus one can read and understand the content of the application and if someone was confused by the error, it is clearly written in the specification. It is also not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or to determine the scope of the patent application publication or of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

It is noted that the application was filed with a preliminary amendment deleting claims 1-26 and adding new claims 27-37. Applicant is reminded that a continuation or divisional application under 37 CFR 1.53(b) may be filed with only new claims so that the continuation application may be published including the new claims.²

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

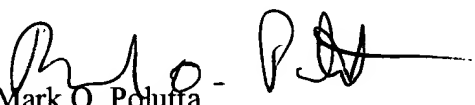
Any request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
 Commissioner for Patents
 Washington DC 20231

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1600 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).


Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

²Pre-Grant Publication Helpful Hint: File Continuation or Divisional Application with a New Specification and Copy of Oath or Declaration from Prior Application, 1251 Off. Gaz. Pat. Office Notices 54 (Oct. 9, 2001).